

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

### Introduced

## Senate Bill 757

FISCAL  
NOTE

BY SENATORS PREZIOSO, BALDWIN, BEACH, FACEMIRE,  
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PLYMALE, ROMANO, STOLLINGS, UNGER, AND WOELFEL

[Introduced February 12, 2020; referred  
to the Committee on Pensions; and then to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §5-10-22m; and to amend said code by adding thereto a new section,  
 3 designated §18-7A-26x, all relating to an annual cost-of-living adjustment to certain  
 4 retirees of the Public Employees Retirement System and the State Teachers Retirement  
 5 System.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

**§5-10-22m. Annual cost-of-living adjustments.**

1 (a) Except as provided in subsection (b) of this section, each fiscal year, the Board of  
 2 Trustees shall adjust retirement benefits paid to retirees of the system as provided in this section.  
 3 The adjustment provided by this section applies to any retiree who currently receives an annual  
 4 retirement annuity. This adjustment is subject to any applicable limitations under section 415 of  
 5 the Internal Revenue Code of 1986, as amended.

6 (b) An initial cost-of-living adjustment may not be made until the second July 1 after the  
 7 day preceding the effective date of an allowance.

8 (c) A cost-of-living adjustment does not apply to:

9 (1) Benefits paid in a single payment;

10 (2) The return of accumulated contributions; or

11 (3) Benefits attributable to additional contributions.

12 (d) Computation of cost-of-living rate. -- (1) Except as provided in subdivision (2) of this

13 subsection, and subject to subsection (g) of this section, to determine the cost-of-living rate used  
14 to adjust an allowance in a fiscal year, the Board of Trustees shall:

15 (A) Subtract the Consumer Price Index for the calendar year ending December 31 in the  
16 second preceding fiscal year from the Consumer Price Index for the calendar year ending  
17 December 31 in the preceding fiscal year; and

18 (B) Divide the amount determined under paragraph (A) of this subdivision by the  
19 Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal  
20 year.

21 (2) The cost-of-living rate used to adjust an allowance in a fiscal year may not exceed  
22 three percent.

23 (e) The cost-of-living adjustment as of July 1 of a fiscal year shall be determined by  
24 multiplying the cost-of-living rate determined in subsection (d) of this section by the initial  
25 allowance.

26 (f) Total allowance payable in fiscal year. The total allowance payable in any fiscal year  
27 shall be the sum of:

28 (1) The initial allowance;

29 (2) The cost-of-living adjustment;

30 (3) The accumulated cost-of-living adjustment amount; and

31 (4) Any additional annuity.

32 (g) "Zero-rate fiscal year" defined and effect.

33 (1) In this subsection, "zero-rate fiscal year" means any fiscal year when the cost-of-living  
34 rate calculated under subsection (d) of this section is less than zero percent.

35 (2) For any fiscal year in which the cost-of-living rate determined under subsection (d) of  
36 this section is less than zero percent, the cost-of-living rate for that fiscal year shall be zero  
37 percent.

38 (3) In a fiscal year that is not a zero-rate fiscal year:

39 (A) Subject to paragraph (B) of this subdivision:

40 (i) For a fiscal year that follows immediately after a zero-rate fiscal year, the cost-of-living  
 41 rate determined under subsection (d) of this section shall be reduced by the difference between  
 42 zero percent and the cost-of-living rate that would have been determined under subsection (d) of  
 43 this section for the preceding fiscal year without regard to subdivision (2) of this subsection; and

44 (ii) For a fiscal year that follows immediately after two or more consecutive zero-rate fiscal  
 45 years, the cost-of-living rate determined under subsection (d) of this section shall be reduced by  
 46 the difference between zero percent and the total cost-of-living rate that would have been  
 47 determined under subsection (d) of this section for each of those fiscal years without regard to  
 48 subdivision (2) of this subsection.

49 (B) If the rate reduction required for any fiscal year under paragraph (A) of this subdivision  
 50 would reduce the cost-of-living rate for the fiscal year to be less than zero percent, the difference  
 51 between zero percent and the excess rate reduction shall be deducted from the cost-of-living rate  
 52 in future years, subject to subdivision (2), until the total required rate reduction has been fully  
 53 applied.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

#### **§18-7A-26x. Annual cost-of-living adjustments.**

1 (a) Except as provided in subsection (b) of this section, each fiscal year, the retirement  
 2 board shall adjust retirement benefits paid to retirees of the system as provided in this section.  
 3 The adjustment provided by this section applies to any retiree who currently receives an annual  
 4 retirement annuity. This adjustment is subject to any applicable limitations under section 415 of  
 5 the Internal Revenue Code of 1986, as amended.

6 (b) An initial cost-of-living adjustment may not be made until the second July 1 after the  
 7 day preceding the effective date of an allowance.

8 (c) A cost-of-living adjustment does not apply to:

9 (1) Benefits paid in a single payment;

10 (2) The return of accumulated contributions; or

11 (3) Benefits attributable to additional contributions.

12 (d) Computation of cost-of-living rate. -- (1) Except as provided in subdivision (2) of this  
13 subsection, and subject to subsection (g) of this section, to determine the cost-of-living rate used  
14 to adjust an allowance in a fiscal year, the retirement board shall:

15 (A) Subtract the Consumer Price Index for the calendar year ending December 31 in the  
16 second preceding fiscal year from the Consumer Price Index for the calendar year ending  
17 December 31 in the preceding fiscal year; and

18 (B) Divide the amount determined under paragraph (A) of this subdivision by the  
19 Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal  
20 year.

21 (2) The cost-of-living rate used to adjust an allowance in a fiscal year may not exceed  
22 three percent.

23 (e) The cost-of-living adjustment as of July 1 of a fiscal year shall be determined by  
24 multiplying the cost-of-living rate determined in subsection (d) of this section by the initial  
25 allowance.

26 (f) Total allowance payable in fiscal year. -- The total allowance payable in any fiscal year  
27 shall be the sum of:

28 (1) The initial allowance;

29 (2) The cost-of-living adjustment;

30 (3) The accumulated cost-of-living adjustment amount; and

31 (4) Any additional annuity.

32 (g) "Zero-rate fiscal year" defined and effect.

33 (1) In this subsection, "zero-rate fiscal year" means any fiscal year when the cost-of-living  
34 rate calculated under subsection (d) of this section is less than zero percent.

35 (2) For any fiscal year in which the cost-of-living rate determined under subsection (d) of

36 this section is less than zero percent, the cost-of-living rate for that fiscal year shall be zero  
37 percent.

38 (3) In a fiscal year that is not a zero-rate fiscal year:

39 (A) Subject to paragraph (B) of this subdivision:

40 (i) For a fiscal year that follows immediately after a zero-rate fiscal year, the cost-of-living  
41 rate determined under subsection (d) of this section shall be reduced by the difference between  
42 zero percent and the cost-of-living rate that would have been determined under subsection (d) of  
43 this section for the preceding fiscal year without regard to subdivision (2) of this subsection; and

44 (ii) For a fiscal year that follows immediately after two or more consecutive zero-rate fiscal  
45 years, the cost-of-living rate determined under subsection (d) of this section shall be reduced by  
46 the difference between zero percent and the total cost-of-living rate that would have been  
47 determined under subsection (d) of this section for each of those fiscal years without regard to  
48 subdivision (2) of this subsection.

49 (B) If the rate reduction required for any fiscal year under paragraph (A) of this subdivision  
50 would reduce the cost-of-living rate for the fiscal year to be less than zero percent, the difference  
51 between zero percent and the excess rate reduction shall be deducted from the cost-of-living rate  
52 in future years, subject to subdivision (2), until the total required rate reduction has been fully  
53 applied.

NOTE: The purpose of this bill is to provide an annual cost-of-living adjustment for certain retirees.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.